

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TRIGINAL D. JACKSON,

Plaintiff,

vs.

No. CIV-08-1108 WJ/LAM

TOMMY VALDEZ, et al.,

Defendants.

ORDER DENYING MOTION TO PROCEED WITH CASE

THIS MATTER is before the Court on Plaintiff's *Motion to Proceed With Case* (Doc. 47), filed January 4, 2011. Defendants filed their response on January 21, 2011. [Doc. 49]. Plaintiff did not file a reply, and the deadline for doing so has passed. In his motion, Plaintiff asks the Court to set a new track for discovery in this case. [Doc. 47 at 1, 18]. Having reviewed the motion, response, record of this case, and relevant law, the Court **FINDS** that the motion is not well-taken and should be **DENIED**.

In his motion, Plaintiff states that he is asking for a new discovery track "so counsel can provide requested discovery made by plaintiff months ago." *Id.* at 18. On March 19, 2009, the Court entered a scheduling order setting this case for a standard discovery track. [Doc. 28].¹ Discovery terminated in this case July 20, 2009. [Doc. 28 at 1]. In their response, Defendants state that "Plaintiff neglected to conduct any discovery during the assigned time." [Doc. 49 at 1]. There are no certificates of service filed in this case indicating that Plaintiff has conducted any discovery. Moreover, Plaintiff provides no support for his statement that Defendants have failed to respond to discovery requests, nor does Plaintiff state what discovery he has sought or is seeking. He does not

¹The Court reminds Plaintiff that this scheduling conference was reset twice -- the first time was upon Plaintiff's request for an extension of time due to Plaintiff's delay in submitting his portion of the joint status report and provisional discovery plan to Defendants (*see Doc. 15*), and the second time was because Plaintiff failed to appear at Defendants' counsel's office to complete his portion of the joint status report (*see Doc. 20*).

attach copies of any “requested discovery made by plaintiff months ago.” For these reasons, the Court finds that Plaintiff fails to set forth any grounds for setting a new discovery track in this case and will deny Plaintiff’s motion.

IT IS THEREFORE ORDERED that Plaintiff’s *Motion to Proceed With Case* (Doc. 47) is **DENIED**.

IT IS SO ORDERED.

Lourdes A. Martinez
LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE